

111TH CONGRESS
1ST SESSION

S. 605

To require the Securities and Exchange Commission to reinstate the uptick rule and effectively regulate abusive short selling activities.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 2009

Mr. KAUFMAN (for himself, Mr. ISAKSON, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Securities and Exchange Commission to reinstate the uptick rule and effectively regulate abusive short selling activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REINSTATEMENT REQUIRED.**

4 Not later than 60 days after the date of enactment
5 of this Act, the Securities and Exchange Commission (in
6 this Act referred to as the “Commission”) shall—

7 (1) reinstate the substance of that portion of
8 the regulations in effect on July 5, 2007, that pro-
9 hibited short sales not effected on a plus tick;

1 (2) rescind rule 201 of regulation SHO, at sec-
2 tion 242.201 of title 17, Code of Federal Regula-
3 tions, as in effect on the date of enactment of this
4 Act;

5 (3) require trades by short sellers of securities
6 to yield priority and preference to transactions ef-
7 fected by long sellers of securities;

8 (4) with the concurrence of the Secretary of the
9 Treasury and the Chairman of the Board of Gov-
10 ernors of the Federal Reserve System, prohibit short
11 sales of the securities of any financial institution,
12 unless that trade is effected at a price (in minimum
13 lots, as specified by the Commission) that is at least
14 5¢ higher than the immediately preceding trans-
15 action in such securities;

16 (5) adopt such rules and regulations, consistent
17 with paragraphs (1) through (4), as necessary to
18 prohibit any person from engaging in any conduct
19 that artificially would create a plus tick or satisfy
20 the price requirements set forth in the short sales
21 regulations of the Commission; and

22 (6) take such other actions as may be necessary
23 or appropriate to make the regulation of short sales
24 by the Commission consistent with the requirements
25 of this Act.

1 **SEC. 2. MANDATORY SETTLEMENT PREPAREDNESS RE-**
2 **QUIREMENT.**

3 Not later than 60 days after the date of enactment
4 of this Act, the Commission shall issue regulations prohib-
5 iting any person from selling securities short, unless that
6 person demonstrates, at the time of the sale, that such
7 person possesses, at the time of the sale, a demonstrable,
8 legally enforceable right to deliver the securities at the re-
9 quired delivery date.

10 **SEC. 3. MANDATORY SETTLEMENT TIMES FOR SHORT**
11 **SALES.**

12 Not later than 60 days after the date of enactment
13 of this Act, the Commission shall issue regulations to re-
14 quire that all short sales settle on the same time frame
15 employed for long sales of the same securities.

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